

D&G FARMS
TWO-LOT FIRST MINOR SUBDIVISION AND ONE UNIT SUBDIVISION FOR LEASE OR RENT

STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS

CASE PLANNER: Tristan Riddell *TR*

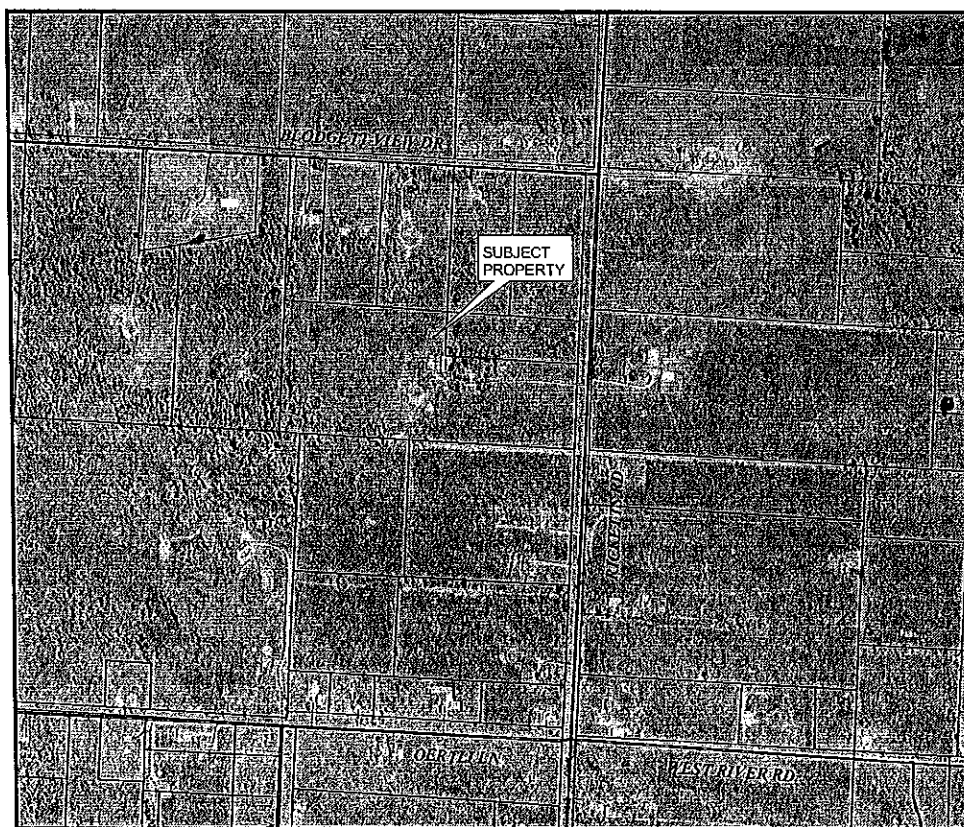
**REVIEWED/
APPROVED BY:** John Lavey *JK*

PUBLIC MEETINGS: BCC Public Meeting: 9:00 a.m. October 23, 2008
Deadline for BCC action (35 working days): November 3, 2008

SUBDIVIDERS: D&G Farms
663 Oak Avenue
San Anselmo, CA 94960

REPRESENTATIVE: Bitterroot Engineering & Design
1180 Eastside Highway
Corvallis, MT 59828

LOCATION OF REQUEST: The property is located northwest of Hamilton off Ricketts Road.
(See Map 1)



Map 1: Location Map
(Source Data: Ravalli County GIS Department)

**LEGAL DESCRIPTION
OF PROPERTY:**

A portion of the NE ¼ of Section 23, T6N, R21W, P.M.M., Ravalli County, Montana.

**APPLICATION
INFORMATION:**

The subdivision application was determined complete on September 15, 2008. Agencies were notified of the subdivision and comments received by the Planning Department not included in the application packet are Exhibits A-1 through A-8 of the staff report. **This subdivision is being reviewed under the subdivision regulations amended May 24, 2007.**

LEGAL NOTIFICATION:

Notice of the project was posted on the property and adjacent property owners were notified by regular mail dated September 25, 2008.

**DEVELOPMENT
PATTERN:**

Subject property:	Low Density Residential
North:	Low Density Residential
South:	Conditionally Approved Subdivision
East:	Agricultural
West:	Low Density Residential

INTRODUCTION

The D&G Farms minor subdivision is a two-lot subdivision and one unit subdivision for lease or rent located on 17.14 acres located northwest of Hamilton off Ricketts Road. The proposed development is located in an area of low density residential use. There are two existing dwellings on the property. The applicant will be required to pay mitigation fees, including pro-rata, based on two units. Evidence showing that the property had been taxed since 1973 for both existing dwellings has not been submitted.

Staff recommends conditional approval of the subdivision proposal.

RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS

OCTOBER 23, 2008

D&G FARMS

TWO-LOT FIRST MINOR SUBDIVISION AND ONE UNIT SUBDIVISION FOR LEASE OR RENT

RECOMMENDED MOTION

That the D&G Farms minor subdivision and subdivision for lease or rent be **approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE SUBDIVISION

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Agriculture*)

Notification of Irrigation Facilities and Easements. Within this subdivision there are irrigation easements, as shown on the final plat. All downstream water right holders have the right to maintain and repair their irrigation facilities whenever necessary to keep them in good condition. Activities associated with the maintenance of irrigation facilities may include the operation of heavy equipment, the occasional burning of ditch vegetation, and the use of herbicides. Downstream water right holders must approve any relocation or alteration (e.g. installation of a culvert) of irrigation ditches/pipelines. Any act that damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance, which includes but is not limited to the placement of structures or the planting of vegetation other than grass, is expressly prohibited. (*Section 3-2-8(a) and Section 3-2-8(b)(v)(B), RCSR, Effects on Agricultural Water User Facilities*)

Limitation of Access onto a Public Road. A "no-ingress/egress" restriction exists along the Ricketts Road frontage of this subdivision, excepting the common approach. Locations of the no-ingress/egress restrictions can be found on a reduced copy of the final plat. Additionally, a no-ingress/egress restriction traverses the entire length of the eastern and southern boundaries of Lot B, excepting the common approach. [*The applicant shall provide a reduced copy of the plat showing the no-ingress/egress zones.*] This limitation of access may be lifted or amended only with the approval of the Board of Ravalli County Commissioners. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health and Safety*)

Notification of "Very Limited" Soils. Within this subdivision there are areas of the property identified as potentially having soils rated as "very limited" for road construction and building sites. The approximate locations of these areas can be found on a reduced copy of the final plat and descriptions of the severe soils in question are included as exhibits to this document [*the applicant shall include the reduced plat and exhibits as attachments*]. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Public Health and Safety*)

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

Living with Wildlife. Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the occasional presence of wildlife such as deer, elk, black bear, mountain lion, wolf, coyote, fox, skunk, raccoon and magpie. Each lot owner shall obtain or be provided and read a copy of the brochure "Living with wildlife," available from the Montana Fish, Wildlife & Parks office in Missoula for brochures that can help homeowners "live with wildlife." Alternatively, see FWP's web site at www.fwp.mt.gov. (Section 3-2-8(b)(v), RCSR, *Effects on Agriculture and Wildlife & Wildlife Habitat*)

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. There is high potential for **vegetation damage by wildlife, particularly from deer** feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners must be aware of this potential damage. They should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Homeowners should consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Gardens, fruit trees or orchards** are a major wildlife attractant, and fruit-bearing trees and shrubs can regularly attract bears in the fall. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or vegetable material can attract bears, skunks and other wildlife. Gardens should be fenced with one-foot of fencing material below ground level and be at least eight feet in height, in order to discourage wildlife such as deer from feeding in gardens. The top rail should be made of something other than wire to prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries. Electric fencing is necessary to effectively prevent wildlife such as bears from entering a garden or fruit tree/shrub area, but only if the fence is properly constructed and regularly monitored and maintained to ensure proper use and function. Consult with the Montana Department of Fish, Wildlife and Parks on the proper techniques to develop and maintain an effective electric fence.
- c. If stored outdoors, **garbage** should be in secure bear-resistant containers; otherwise it should be stored indoors prior to curbside pick-up or transport to a centralized garbage collection site, in order to avoid attracting wildlife such as bears and raccoon. If curbside garbage pick-up is available, garbage cans may not be set out until the morning of garbage pickup and must be brought in no later than that same evening. (Consult Montana Fish, Wildlife & Parks for information on purchasing or constructing bear-resistant trash containers or storage areas.)
- d. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.
- e. **Birdseed** is an attractant to bears, and outdoor birdfeeders are strongly discouraged from April 1st through the end of November. If used, bird feeders must: a) be suspended a minimum of 20 feet above ground level, b) be at least 4 feet from any support poles or

points, and c) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.

- f. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Under current state law it is illegal for dogs to chase hooved game animals and the owner may also be held guilty (MCA 87-3-124). Keeping pets confined also helps protect them from predatory wildlife.
- g. **Pet food and livestock feed** must be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunks, raccoons, and other wildlife. **When feeding pets and/or livestock** do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- h. **Barbecue grills** should be stored indoors, and permanent outdoor barbecue grills are discouraged. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife.
- i. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer becoming entangled in the fence or injuring themselves when trying to jump the fence. We encourage the use of split rail fences.
- j. **Compost piles** can attract skunks and bears and should be avoided. If used they should be kept indoors or built to be wildlife-resistant. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Kitchen scraps could be composted indoors in a worm box with minimum odor and the finished compost can later be added to garden soil.)
- k. Purchasers of lots within this subdivision must recognize that portions of this subdivision are about 1/2 mile or less from the Bitterroot River where lawful waterfowl hunting and the associated discharge of shotguns could occur from early morning until sunset, and the season can run from September into January.
- l. **Apiaries (bee hives)** could attract bears in this area and should be avoided. (If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)
- m. Residents of this subdivision must recognize that the subdivision is located about one-half mile from the Bitterroot River and its associated sloughs and wetlands, where lawful waterfowl hunting and the associated **discharge of shotguns** could occur from a half-hour before sunrise through sunset, and the season can run from September into January.
- n. These "living with wildlife" covenants cannot be altered or eliminated without consent of the governing body (Ravalli County Commissioners).

Lighting for New Construction. To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit www.darksky.org. (Section 3-2-8(b)(v)(B), RCSR, Effects on Public Health & Safety)

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into

structures. Property owners are encouraged to have their structures tested for radon. Contact the Ravalli County Environmental Health Department for further information. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Public Health & Safety*)

Control of Noxious Weeds. A weed control plan has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s). Contact the Ravalli County Weed District for further information. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Agriculture and Natural Environment*)

Access Requirements for Lots within this Subdivision. The Ravalli County Fire Council, which includes the Hamilton Rural Fire Department, has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 20', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire Department for further information. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety*)

Building Standards. The Ravalli County Fire Council recommends that houses within this subdivision be built to International Residential Building Code (IRBC) building standards. It is recommended that any commercial buildings be constructed to meet state building code requirements. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety*)

Wood Stoves. The County recommends that home owners refrain from installing wood stoves if possible. The County further recommends that wood and other biomass burning stoves not be used as the primary heat source. If a homeowner chooses to burn wood as a back-up heat source, the County strongly encourages them to install an EPA-certified wood stove as the best option to reduce air pollution and more specifically, to install an EPA-certified pellet stove. More information on low emission, EPA-certified wood stoves is available at <http://www.epa.gov/woodstoves/index.html>. The State of Montana offers an Alternative Energy Systems Tax Credit to offset the cost of purchasing and installing a low emission wood or biomass combustion device such as a pellet or wood stove. Besides the tax credit for qualifying wood stoves, individual Montana residents can claim a tax credit for energy conservation investments made to a home or other building. For more information on the energy conservation tax credits and ways to save energy, please see the *Warm Hearts, Warm Homes* webpage (<http://deq.mt.gov/Energy/warmhomes/index.asp>) on the Montana Department of Environmental Quality's website. (*Section 3-2-8(b)(v)(B), RCSR, Effects on the Natural Environment*)

Archeological Resources. If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate. (*Section 3-2-8(b)(v), RCSR, Effects on Natural Environment*)

Amendment. Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. (*Effects on all six criteria*)

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community

wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. (Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)

4. Prior to final plat approval, the subdividers shall provide a letter from the Hamilton Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for all lots. Alternatively, the subdividers may provide evidence that a \$500 contribution has been submitted to the Hamilton Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)
5. The following statement shall be shown on the final plat: "The Ravalli County Fire Council, which includes the Hamilton Rural Fire District, has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire District for further information". (Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)
6. The subdividers shall submit a (amount) contribution to the Ravalli County Treasurer's Office to be deposited into an account for Public Safety Services (Sheriff, E-911, DES) prior to final plat approval. (Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health & Safety)
7. The subdividers shall submit a letter or receipt from the Hamilton School District stating that they have received a (amount) contribution prior to final plat approval. (Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)
8. The final plat shall show a no-ingress/egress zone along the Ricketts Road frontage and along the driveway easement for Lot A, excepting the common approach. (Section 3-2-8(b)(v)(B), RCSR, Prerequisites to Approval, Effects on Local Services and Public Health and Safety)
9. The final plat shall show a 10-foot wide irrigation easement along the irrigation ditches traversing portions of Lot A and B. (Section 3-2-8(b)(v)(B), RCSR, Effects on Agricultural Water User Facilities)
10. The subdividers shall submit a common access maintenance agreement in accordance with Section 3-1-5(a)(xxxviii) of the RCSR. (Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)
11. Prior to final plat approval, the subdividers shall submit a letter from the Hamilton Rural Fire District indicating that they have accepted the widening of the driveway accessing Lot B, as requested in a letter dated September 17, 2008. (Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health and Safety)

FINAL PLAT REQUIREMENTS (RAVALLI COUNTY SUBDIVISION REGULATIONS)

The following items shall be included in the final plat submittal, as required by the Ravalli County Subdivision Regulations, Section 3-4-4(a) et seq.

1. A statement from the project surveyor or engineer prior to final plat approval outlining how each final plat requirement or condition of approval has been satisfied.

2. One paper and two mylar 18" x 24" or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats (ARM 8.94.3003). (One paper copy may be submitted for the first proofing.) The final plat shall conform to the preliminary plat decision. The features listed in RCSR Section 3-4-4(a)(ii) are required on the Final Plat. Following are specific features related to this subdivision:
 - a) Existing and proposed utility easements, as shown on the preliminary plat, shall be shown on the final plat. (*see also, Prerequisite to Approval A*)
 - b) 10-foot irrigation easements shall be shown on the final plat. (*Condition 9*)
3. The original copy of the preliminary plat decision shall be submitted with the final plat submittal.
4. Any variance decisions shall be submitted with the final plat submittal.
5. Copies of extensions of the preliminary plat approval period shall be submitted with the final plat submittal.
6. The final plat review fee shall be submitted with the final plat submittal.
7. Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder, shall be submitted with the final plat submittal.
8. A Title Report or updated Abstract dated no less than one (1) year prior to the date of submittal shall be submitted with the final plat submittal.
9. The DEQ Certificate of Subdivision Approval or RCEH approval shall be submitted with the final plat submittal.
10. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision shall be submitted with the final plat submittal.
11. Final Road and Driveway approach and encroachment permits from RCRBD.
12. Utility availability certification(s) shall be submitted with the final plat submittal.
13. A notarized statement from each downstream water user specifically authorizing any alteration, such as installation of culverts, bridges, etc., or relocation of any ditch.
14. Protective covenants to be filed with the final plat that are signed and notarized shall be submitted with the final plat submittal.
15. Copies of permits issued by the Bitterroot Conservation District or the US Army Corps of Engineers when construction occurs on environmentally sensitive features shall be submitted with the final plat submittal.
16. A copy of the letter sent to the Hamilton School District stating the applicant has made or is not willing to make a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities; shall be submitted with the final plat submittal.
17. The applicant shall pay the pro rata share of the cost to improve the portion of Bowman Road and Rickets Road leading to the subdivision from U.S. Highway 93 prior to final plat approval. The pro-rata assessment shall be based on 2 units. (Section 5-4-5(d), RCSR)
18. Evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider, Professional Engineer, or contractor, as may be appropriate and required, shall be submitted with the final plat submittal. Alternatively, an improvements agreement and guaranty shall be required. (Refer to Section 3-4-2.) Following are specific improvements required for this subdivision:
 - Construction of a common driveway in accordance with Section 5-4-7 of the RCSR.
 - The driveway serving Lot B shall be widened to a 20-foot wide gravel surface with an unobstructed vertical clearance not less than 13 feet 6 inches.

SUBDIVISION REPORT

COMPLIANCE WITH PREREQUISITES TO APPROVAL

Section 3-2-8(a) of the RCSR states that the BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it establishes by credible evidence that the proposed subdivision meets the following requirements:

A. Provides easements for the location and installation of any planned utilities.

Findings of Fact

1. Existing utility easements are located along Ricketts Road. (Application)
2. The property has two existing homes, each of which is currently being served by Northwestern Energy and Quest Communications. (Application)
3. *Existing and proposed utility easements are required to be shown on the final plat. (Final Plat Requirement 2)*

Conclusion of Law

The proposed subdivision application provides for utility easements.

B. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel.

Findings of Fact

1. The subject property is accessed from U.S. Highway 93, Bowman Road, and Ricketts Road. (Application)
2. U.S. Highway 93 is a state maintained roadway that provides legal and physical access. (Application)
3. Bowman Road and Ricketts Road are county-maintained roadways that provide both legal and physical access to the proposed subdivision. (Application and Exhibit A, RCSR)
4. *To ensure legal and physical access to the subdivision the following requirements shall be met:*
 - *The final plat shall show a no-ingress/egress zone along the Ricketts Road frontage and along the driveway easement for Lot A, excepting the common approach. (Condition 8)*
 - *Prior to final plat approval, the subdividers shall submit a final approach permit, for the common access, issued by the Ravalli County Road and Bridge Department. (Final Plat Requirement 11)*
 - *The applicant is required to pay the pro rata share of the cost to improve the portions of Bowman Road and Ricketts Road leading to the subdivision prior to final plat approval, and shall obtain a pro-rata determination from the Ravalli County Road and Bridge Department. (Compliance with Applicable Regulations 'A', and Final Plat Requirement 17)*

Conclusion of Law

With the requirements of final plat approval, legal and physical access will be provided on U.S. Highway 93, Bowman Road, and Ricketts Road.

- C. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section [3-4-2] of these regulations.**

Finding of Fact

The applicant is required to submit evidence that the following improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdividers prior to final plat approval (Final Plat Requirement 11):

- The common approach shall be constructed in accordance with the approach permit issued by the Ravalli County Road and Bridge Department, and in accordance with Condition 10.

Conclusion of Law

The final plat requirements or an improvements agreement and guaranty will ensure that all improvements are installed.

- D. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Finding of Fact

1. The subdivision has the following water rights (Application):
 - DNRC right 76H 111327 00, which appropriates 192.98 gallons per minute (GPM) from Blodgett Creek.
 - DNRC right 76H 111326 00, which is a court decreed right from Blodgett Creek for stock water purposes.
2. The stock water right will be retained with Lot B and the irrigation right will be reallocated between Lots A and B.
3. There are two irrigation ditches that traverse the property in a west to east direction. The southernmost of the ditches culminates on the property. (Preliminary Plat)
4. The placement of structures or the planting of vegetation other than grass within irrigation easements is prohibited. (76-3-504(1)(k) MCA).
5. *To ensure that the provisions of 76-3-504(1)(k) MCA are met, the following requirement and condition shall be met prior to final plat approval:*
 - *The final plat shall show a 10-foot wide irrigation easement along the irrigation ditches traversing portions of Lot A and B. (Final Plat Requirement 2 & Condition 9)*

Conclusion of Law

With the requirement and condition of final plat approval, this prerequisite will be met.

- E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Findings of Fact

1. 76-3-504(1)(k) MCA states that, except as provided in subsection (1)(k)(ii) (the proposal does not meet the criteria in this subsection), the subdividers are required to establish ditch easements in the subdivision that:
 - (a) are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;

- (b) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and
 - (c) prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.
2. The placement of structures or the planting of vegetation other than grass within the irrigation easement is prohibited. (76-3-504(1)(k) MCA).
 3. *To ensure that the provisions of 76-3-504(1)(k) MCA are met, the following requirement and condition shall be met prior to final plat approval:*
 - *The final plat shall show a 10-foot wide irrigation easement along the irrigation ditches traversing portions of Lot A and B. (Final Plat Requirement 2 & Condition 9)*

Conclusion of Law

With the requirement and condition of final plat approval, this prerequisite will be met.

F. Provides for the appropriate park dedication or cash-in-lieu, if applicable.

Finding of Fact

Parkland dedication is not required of minor subdivisions creating only one additional lot. Furthermore, when a subdivision is proposed which creates lots greater than 5 acres in size, parkland dedication is not required. (RCSR Section 6-1-5 (b)(1))

Conclusion of Law

Because only one additional lot is proposed and the proposed lots are greater than 5 acres in size, this prerequisite is not required.

COMPLIANCE WITH APPLICABLE REGULATIONS

Section 3-2-8(b) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets Section 3-2-8(a) above, and whether the proposed subdivision complies with:

A. These regulations, including, but not limited to, the standards set forth in Chapter 5.

Findings of Fact

1. The lot layout as indicated on the preliminary plat appears to meet the design standards in Chapter 5 of the RCSR.
2. This development plan proposal has followed the necessary application procedure and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations.
3. The applicant provided evidence regarding the status of an existing home and trailer located on the property. The information was intended to provide credible evidence proving that the home and the trailer have been in place since the enactment of the Montana Subdivision and Platting Act (MSPA) of 1973. Staff concluded that because evidence showing that the property has been taxed for two dwellings was not provided, mitigation would be assessed for two units. (Application, Effects on Local Services)
4. *To ensure that all provisions of the Ravalli County Subdivision Regulations are complied with, the applicant shall pay the pro-rata share, for two units, of the cost to bring Bowman Road and Ricketts Road to County Standards. (Final Plat Requirement 17)*

Conclusions of Law

1. The preliminary plat and subdivision application meet all applicable standards required in the RCSR.
2. The procedures for the application and review of this proposed subdivision have been followed.

B. Applicable zoning regulations.

Findings of Fact

1. The subject property is under the jurisdiction of the interim zoning regulation limiting subdivisions to a density of one dwelling per two acres (recorded as Resolution 2193). The application complies with Resolution 2193.
2. The property is not within one of the voluntary zoning districts in Ravalli County.

Conclusion of Law

This proposal appears to comply with existing zoning regulations.

C. Existing covenants and/or deed restrictions.

Finding of Fact

There are no existing covenants on the property.

Conclusion of Law

There are no covenants that apply to this property.

D. Other applicable regulations.

Findings of Fact

1. Following are regulations that may apply to this subdivision:
 - Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
 - Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
 - Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
 - Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
 - Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)
2. The applicants were made aware of the applicable regulations at the pre-application conference held on December 31, 2007.

Conclusion of Law

The application appears to meet all of the applicable regulations.

E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:

CRITERION 1: EFFECTS ON AGRICULTURE

Findings of Fact:

1. The proposed minor subdivision on 17.14 acres will result in 2 lots that range in size from 7.00 acres to 10.14 acres. The property is located approximately 1.5 miles west of the city of Hamilton off Ricketts Road. (Application)
2. In a letter dated August 27, 2008, State Conservationist Dave White of the Natural Resource Conservation Service confirmed that the NRCS soils staff would no longer utilize the farmland of local importance soils classification, per the request of the Bitterroot Conservation District. (Exhibit A-1)
3. During a phone conversation on September 24, 2008, Julie Ralston of the Bitterroot Conservation District summarized the reasoning for eliminating the farmland of local importance soils classification. (Exhibit A-2)
4. The NRCS Web Soil Survey indicates that there are no prime farmlands or farmlands of statewide importance found on the property (Application).

5. The property has two existing homes (Lot B) and one additional home-site will be created (Lot A). (Application)
6. The applicant submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated spotted knapweed is scattered across the property. (Application)
7. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)
8. *Following are conditions and requirements of final plat approval that will mitigate the impacts of the subdivision on agriculture:*
 - *A notification of proximity to agricultural operations shall be included in the notifications document filed with the final plat. The protective covenants, also filed with the final plat, shall include a provision requiring homeowners to keep pets confined to the house, a fenced yard, or in an outdoor kennel. (Conditions 1 and 2)*
 - *The approved Ground Disturbance and Noxious Weed Management Plan is required to be submitted prior to final plat approval. (Final Plat Requirement 10)*
 - *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

Conclusions of Law:

With the mitigating conditions of approval and requirement of final plat approval, the impacts of the subdivision on agriculture will be reduced.

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact

1. The subdivision has the following water rights (Application):
 - DNRC right 76H 111327 00, which appropriates 192.98 gallons per minute (GPM) from Blodgett Creek.
 - DNRC right 76H 111326 00, which is a court decreed right from Blodgett Creek for stock water purposes.
2. The stock water right associated with an existing well on Lot B will be retained with said lot and the irrigation right will be reallocated between Lots A and B.
3. There are two irrigation ditches that traverse the property in a west to east direction. The southernmost of the ditches culminates on the property. (Preliminary Plat)
2. The placement of structures or the planting of vegetation other than grass within the irrigation easement is prohibited. (76-3-504(1)(k) MCA).
3. *To ensure that the provisions of 76-3-504(1)(k) MCA are met, the following requirement and conditions shall be met prior to final plat approval:*
 - *The final plat shall show 10-foot wide irrigation easements along both irrigation ditches traversing the property. (Final Plat Requirement 2 and Condition 9)*

Conclusion of Law

With the mitigating condition of approval and requirement of final plat approval, the impacts of the subdivision on agricultural water user facilities will be reduced.

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

Fire District

1. The subdivision is located within the Hamilton Rural Fire District. (Application)
2. The Hamilton Rural Fire District has adopted Fire Protection Standards, which address access, posting of addresses, and water supply requirements. The Fire District also recommends that

houses within this subdivision be built to International Residential Building Code (IRBC) building standards. (Exhibit A-3)

3. In a letter dated September 17, 2008, Lisa Wade of the Hamilton Rural Fire District provided comment specific to the D&G Farms proposal. The letter states that the fire department approves of the proposal for lots to be accessed via driveways as long as the driveways are constructed to be 20 feet wide with gravel travel surfaces and have an unobstructed vertical clearance of not less than 13 feet 6 inches. (Exhibit A-4)
4. Montana Department of Revenue records indicate that the property has only been assessed taxes for one dwelling unit (farmhouse constructed in 1895). (Application)
5. *The following conditions will mitigate impacts of the subdivision on the Fire District:*
 - *Provisions shall be included in the covenants requiring that addresses are posted as soon as construction begins, and that all driveways over 150 feet meet the standards of the Fire District. (Condition 2)*
 - *The covenants shall include a provision recommending that houses are built to meet IRBC standards. (Condition 2)*
 - *Prior to final plat approval, the subdividers shall provide a letter from the Hamilton Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for all lots. Alternatively, the subdividers may provide evidence that a \$500 contribution has been submitted to the Hamilton Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (Condition 4)*
 - *The following statement shall be shown on the final plat: "The Hamilton Rural Fire District has adopted Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire District for further information". (Condition 5)*
 - *Prior to final plat approval, the subdividers shall submit a letter from the Hamilton Rural Fire District indicating that they have accepted the widening of the driveway accessing Lot B, as requested in a letter dated September 17, 2008. (Condition 11)*

School District

6. Notification letters were sent to the Hamilton School District requesting comments on August 22, 2008 and September 25, 2008, but no comments have been received from the School District. (Subdivision File)
7. The cost per pupil for one year in the Hamilton School District, excluding capital costs, is \$6,619. Taxes from new residents may not be immediately available to the school districts. (Exhibit A-5)
8. Montana Department of Revenue records indicate that the property has only been assessed taxes for one dwelling unit (farmhouse constructed in 1895). (Application)
9. *Staff recommends that the applicant negotiate a contribution with the BCC, in consultation with the Hamilton School District, if possible, to mitigate potential impacts on the School District. (Condition 7 and Final Plat Requirement 16)*

Water and Wastewater Districts

10. Individual wells and wastewater treatment systems are proposed to serve the lots. The property is not near any municipal water or wastewater systems. (Application)

Law Enforcement and County Emergency Services (Sheriff, E-911, DES)

11. The Ravalli County Sheriff's Office provides law enforcement services to this area. (Application)

12. Notification letters were sent to the Ravalli County Sheriff's Office requesting comments on August 22, 2008 and September 25, 2008, but no comments have been received from the Sheriff's Office.
13. The average number of people per household in Ravalli County is 2.5. (Census 2000)
14. Montana Department of Revenue records indicate that the property has only been assessed taxes for one dwelling unit (farmhouse constructed in 1895). (Application)
15. *To mitigate impacts on local services, the subdividers shall submit a (amount) contribution to the Ravalli County Treasurer's Office to be deposited into an account for Public Safety Services (Sheriff, E-911, DES) prior to final plat approval. (Condition 6)*

Emergency Services

16. Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Dept. Marcus Daly was contacted but no comments have been received to date. (Subdivision File)

Solid Waste Services

17. Bitterroot Disposal provides solid waste service to this site. (Application)
18. Notification letters were sent to Bitterroot Disposal requesting comments on August 22, 2008 and September 25, 2008, but no comments have been received. (Subdivision File)

Utilities

19. Both dwelling units within the proposed subdivision are currently being served by Northwestern Energy and Qwest Communications. (Application)
20. Notification letters were sent to both utility companies requesting comments on August 22, 2008 and September 25, 2008, but no comments have been received to date. (Subdivision File)
21. *The following requirements will mitigate impacts of the subdivision on local utilities:*
 - *Existing and proposed utility easements shall be shown on the final plat. (Final Plat Requirement 2)*
 - *The applicant shall submit utility availability certifications from Northwestern Energy and Qwest Communications prior to final plat approval. (Final Plat Requirement 14)*

Roads

22. Ricketts Road provides access to the subdivision from Bowman Road and US Highway 93. Ricketts Road and Bowman Road are county-maintained and U.S. Highway 93 is state operated. (Application and Exhibit A, RCSR)
23. The applicant has proposed to access both Lots via a common driveway from an existing approach. Lot A will be accessed along a private driveway easement that traverses the eastern and southern edge of the property.
24. Section 5-4-5 (d) of the Ravalli County Subdivision Regulations requires the applicant to pay the pro-rata share of the cost to improve non-county standard county-maintained roads.
25. The definition of pro-rata found within the RCSR relieves the developer from paying the pro-rata share for homes that have been in place on the proposed subdivision site prior to the enactment of the Montana Subdivision and Platting Act (MSPA) of 1973.
26. The applicant has not submitted credible evidence to the Planning Department demonstrating that both residential units on proposed Lot B have been in place since the enactment of the MSPA. (Staff Determination)
27. *To mitigate impacts on the roads leading to the subdivision, the following conditions and requirements shall be met:*
 - *To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (Condition 3)*

- *The final plat shall show a no-ingress/egress zone along the Ricketts Road frontage and along the driveway easement for Lot A, excepting the common approach. (Final Plat Requirement 2 and Conditions 1 and 8)*
- *The subdividers shall submit a common access maintenance agreement in accordance with Section 3-1-5(a)(xxxviii) of the RCSR. (Condition 10)*
- *The applicant is required to pay the pro rata share of the cost to improve the portions of Bowman Road and Ricketts Road leading to the subdivision prior to final plat approval, and shall obtain a pro-rata determination from the Ravalli County Road and Bridge Department. The pro-rata shall be based on 2 units. (Compliance with Applicable Regulations 'A', and Final Plat Requirement 17)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be reduced.

CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT

Findings of Fact:

Air Quality

1. This proposed subdivision will add one new home to Ravalli County. (Application, 2004 Aerial Photograph and Site Visit on 3/8/08)
2. The Montana DEQ has identified that burning sources – such as fireplaces and wood stoves – are the most common sources of particulate matter (PM-10 and PM-2.5). The smaller PM-2.5 particles, often referred to as "fine particulates," are easily inhaled and can cause tissue damage, emphysema, bronchitis, and cardiovascular complications. Children, seniors, and individuals with pre-existing respiratory diseases are most susceptible to these health risks. (Montana DEQ Citizens Guide to Air Quality in Montana' <http://www.deq.mt.gov/AirMonitoring/citguide/understanding.asp>)
3. *To mitigate impacts on air quality, the covenants shall include a provision recommending that homeowners refrain from installing wood stoves. (Condition 2)*

Ground Water Quality

4. The applicants are proposing individual wells and wastewater facilities. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Exhibit A-6)
5. *The applicant is required to submit a DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 8)*

Surface Water Features

6. There are no streams, rivers, riparian areas or wetlands on or adjacent to the property. (Application, Site Visit, GIS data)

Vegetation

7. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated spotted knapweed is scattered on the property.
8. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board.
9. The Montana Natural Heritage Program found that there were no plant species of concern within the same sections as the subject property (Application).

10. *To mitigate impacts on the natural environment, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

Archaeological Resources

11. In a letter dated November 14, 2007, Damon Murdo of the Montana Historical Society (MHS) stated that if any structures over 50 years old are planned for alteration, it is recommended that the National Register of Historic Places be notified and they be registered and a determination of their eligibility be made. (Application)
12. *To mitigate possible impacts on any potential sensitive historical, cultural, archaeological, paleontological, and/or scenic sites, the following statement shall be included in the covenants: "If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the developer will contact the State Historic Preservation Office to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate". (Condition 2)*

Conclusion of Law:

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval.

CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT

Findings of Fact:

1. Montana Fish Wildlife and Parks provided comments regarding this particular proposal, and recommended "Living with Wildlife" covenants specific to this proposal. (Exhibit A-7)
2. The property is not located within big-game winter range. (FWP)
3. According to the Montana Natural Heritage Program, the Gray Wolf, Townsend's Big-Eared Bat, Bald Eagle, and Western Skink were identified as species of concern as they have been known to exist in the same section as the proposed subdivision. The subdividers requested and received a waiver from the requirement to submit a sensitive species report because of lack of habitat on the property for all species. (Exhibit A-8)
4. *To mitigate impacts on wildlife, the following conditions shall be met:*
 - *The covenants shall include a living with wildlife section. (Condition 2)*

Conclusion of Law:

With the mitigating conditions of approval, impacts on Wildlife & Wildlife Habitat will be reduced.

CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY

Findings of Fact:

Traffic Safety

1. Access is proposed off Ricketts Road from Bowman Road and US Highway 93. (Application)
2. *The requirements and conditions listed under Roads in Criterion 3 will mitigate the impacts of the subdivision on traffic safety.*

Emergency Vehicle Access and Response Time

3. The proposed subdivision will be served by the Hamilton Rural Fire District, the Ravalli County Sheriff's Office, and Marcus Daly Memorial Hospital EMS Department. (Application)
4. *The requirements and conditions listed under Fire District, Law Enforcement, Emergency Services, and Roads in Criterion 3 will mitigate the impacts of the subdivision on emergency vehicle access and response time.*

Water and Wastewater

5. The applicants are proposing individual wells and wastewater facilities. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County

Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Application)

6. *The applicant is required to submit a DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 21)*

Natural and Man-Made Hazards

7. According to a document titled "Radon and You, Promoting Public Awareness of Radon in Montana's Air and Ground Water" published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County. (DEQ)
8. The preliminary plat and soils map indicate that the subdivision may have soils rated as "Very Limited" for road and building construction. (Application)
9. *To mitigate the impacts on public health and safety, the following conditions and requirements shall be met:*
 - *The protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*
 - *The covenants shall include a statement regarding radon exposure. (Condition 2)*
 - *To educate property owners and to mitigate potential impacts of this subdivision on Public Health & Safety, a notification of the potential for Very Limited soils shall be included in the notifications document filed with the final plat. A reduced plat showing the approximate locations of soils rated as Very Limited for roads and building construction and descriptions of the soils in question shall be attached to the notifications document as an exhibit. (Condition 1)*

Conclusion of Law:

The mitigating conditions and requirements of final plat approval will address impacts on Public Health & Safety.

EXHIBIT A-1

United States Department of Agriculture



Natural Resources Conservation Service
Federal Building, Room 443
10 East Babcock
Bozeman, MT 59715

RECEIVED
SEP 12 2008
1C0809-1009
Ravalli County Planning Dept.

Office: (406) 587-6811
Fax: (406) 587-6761

August 27, 2008

Tom Ruffatto
Chairman
Bitterroot Conservation District
1709 North First Street
Hamilton, Montana 59840

Dear Mr. Ruffatto:

This letter is in response to the Bitterroot Conservation District's request to withdraw Ravalli County Locally Important Farmland designations that were approved April 9, 2007. I concur with your request and will instruct the NRCS soils staff to eliminate that designation for soils in Ravalli County. Prime and Statewide Importance designations will still remain.

Any further questions or discussion, please feel free to contact me.

Sincerely,

Steve Becker, Acting

DAVE WHITE
State Conservationist

cc:

Henry Burkwhat, District Conservationist, NRCS, Hamilton, MT
Craig Engelhard, Assistant State Conservationist for Field Operations, NRCS, Missoula, MT
Chuck Gordon, State Soil Scientist, NRCS, Bozeman, MT
Jay Skovlin, Project Leader, NRCS, Hamilton, MT

HELPING PEOPLE HELP THE LAND

An Equal Opportunity Provider and Employer

Exhibit A-2

Tristan Riddell

From: John Lavey
Sent: Wednesday, September 24, 2008 10:56 AM
To: Planning; Jennifer Degroot; Tristan Riddell; Renee Lemon; Randy Fifrick; Laura Hendrix; Vanessa Morrell
Cc: Carlotta Grandstaff; James Rokosch; Greg Chilcott; Kathleen Driscoll; Alan Thompson
Subject: Farmlands of Local Importance - Background

All,

I spoke with Julie Ralston today from the Bitterroot Conservation District, who provided me with the following background information regarding the elimination of the Farmlands of Local Importance category from the NRCS soil classifications. Without going into too much detail, the Farmlands of Local Importance soil classification was included in the overall soil assessment to provide cost-sharing incentives to landowners who were considering conservation easements. However, Congress recently passed a national farm bill that included the formulation of a new program that essentially provides the same incentive to landowners as the Local Important soils classification once did. The Environmental Quality Incentive Program (EQulP) is not site specific, unlike Farmlands of Local Importance, and therefore provides the baseline cost-sharing incentive to any landowner in the County. Because the federal government provided this blanket incentive to all landowners, there existed no reason for the BCD to continue assessing properties based on the likelihood of them having Locally Important soils. The BCD then petitioned the NRCS to drop that classification, and it did.

Additionally, Julie noted that the Locally Important farmland classification was being used by the local government to assess fees during subdivision review – against the request of the BCD. Several BCD board members expressed concerns that the classification was not intended to be used as leverage to “tax” (her words) landowners for subdividing. Julie was clear to note that this was not the primary reason for requesting elimination of the Locally Important classification.

Best,

John Lavey
Ravalli County Planning Department
215 South 4th Street, Suite F
Hamilton, MT 59840
406.375.6530



Think Green -
please do not print this email unless necessary

USE for all
districts.

SEP 13 2005

Hamilton
Rural Fire
DISTRICTConsensus of All Valley Fire
Council.
Ravalli County Planning Dept.
IC-05-09-1707
Post Office Box 1994 Hamilton, MT 59840

FIRE PROTECTION STANDARDS

The following Fire Protection Standards were adopted on September 6, 2005.

The Hamilton Rural Fire District has established the Fire Protection Standards for proposed new subdivisions within the district. The requirements were established with consideration for the life and safety of the residents of the district, as well as the volunteer firemen who protect the district, and to mitigate possible harm to the general public.

In establishing the requirements, emphasis was given to the NFPA 1, Chapter 18, The Ravalli County Subdivision Regulations, The Ravalli County Road Department Standards, and the 1993 Fire Protection Guidelines for Wildland Residential Interface Development. These Publications and Articles establish rules for dealing with fire apparatus access roads, fire department access to buildings, water supplies for fire protection, installation and maintenance of fire - protection systems and clearance of brush and vegetative growth from roadways.

Consideration was also given to Section 23.7.105 Administrative Rules of Montana, which is adopted pursuant to authority of 50-3-102 (2) and 50-3-103, MCA, which incorporates by reference the NFPA 1, Chapter 18, and establishes a minimum fire prevention code for Montana.

Every effort has been made to use words and phrases consistent with the definitions given in the above-mentioned publications.

ACCESS ROADS

The Fire District requires that all roads and bridges meet or exceed, and are maintained to, the requirements of the NFPA 1, Chapter 18, which reads in part:

18.2.2.3.1 Required Access. Fire Apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction when any portion of the facility or any portion of an exterior wall of the first story of the building is located more than 150 feet (45720 mm) from fire apparatus access as measured by an approved route around the exterior of the building or facility.

18.2.2.5.1 Dimensions. Fire apparatus access roads shall have an unobstructed travel surface not less than 22-feet in width, which may included a two foot shoulder on each side of an 18-foot wide travel surface, and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm).

18.2.2.5.2 Surface. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with a surface so as to provide all-weather driving capabilities.

18.2.2.5.6 Grade. The gradient for a fire apparatus access road shall not exceed the maximum approved by the fire chief. The Chief accepts the Resolution approved by the Board of County Commissioners of Ravalli County which sets the maximum acceptable road grade at ten percent (10%).

EXCEPTIONS: 1. When buildings are completely protected with an approved automatic sprinkler system, the provisions of NFPA 1, Chapter 18, may be modified by the Fire Chief.

While not all parts of the NFPA 1 are listed above it is the responsibility of the Subdivision Developer to construct and maintain all fire apparatus access roads to comply with all aspects of the NFPA 1 and Ravalli County Standards.

SPECIFIC REQUIREMENTS:

The Fire District requests that all lots (premises) meet the requirements of NFPA 1, Section 18.2.2.5.7 as soon as construction begins with a temporary or permanent address posted at the premises driveway and upon occupancy with a permanent address posted in accordance with the above NFPA 1.

BUILDING STANDARDS

The Fire District will request that all buildings be built to IRBC codes in order to protect persons and property, and that all subdivisions shall be planned, designed, constructed and maintained so as to minimize the risk of fire and to permit effective and efficient suppression of fires.

WATER SUPPLY

The water supply required by the NFPA 1 for one or two family dwellings, not exceeding 3,600 square feet, requires a flow rate of 1,000 G.P.M. The code does not specify the duration of flow for one and two family dwellings, however the Fire Protection Guidelines for Wildland Residential Interface Development and the Ravalli County Subdivision Regulations list the minimum water supply of 2,500 gallons per lot, or 1,000 gallons per minute flow from municipal water systems.

In order to obtain and maintain a Class 5 ISO rating, the Hamilton Volunteer Fire Department is required to flow 500 gallons and maintain this flow for 120 minutes. By ISO standards this is usually sufficient to protect single-family dwellings with adequate spacing between structures. ISO uses the following flow rates, from their *Guide for Determination of Needed Fire Flow*, Chapter 7, when considering adequate coverage for density:

Distance Between Buildings	Needed Fire Flow
More than 100'	500 gpm
31 - 100'	750 gpm
11 - 30'	1,000 gpm
10' or less	1,500 gpm

The Hamilton Rural Fire District will use these fire flows for all subdivisions of single-family dwellings with less than 10 lots. All developments of single-family dwellings with 10 or more lots require a minimum of 1,000 gallons per minute. All commercial, industrial, or multi-family dwellings requiring higher fire flows will have to be engineered by the developer to determine needed fire flows.

Any development in the rural area, with density requiring more than the 500 gallons per minute being supplied by the Hamilton Volunteer Fire Department, will be requested to supply the difference. The water supply installation, upkeep and maintenance will be the responsibility of the Subdivision, pursuant to NFPA 1, Section 18.3.5.

The Fire District realizes the financial burden of installing and maintaining a water supply and or storage tanks capable of providing the required water flows and is willing to accept a voluntary contribution payment of \$500.00 (Five Hundred Dollars) per lot, in lieu of the water supply required by the NFPA 1. Payment of \$500.00 per lot will be due upon approval of the subdivision. The Fire District will use funds paid in lieu of the water supply required by the NFPA 1 to maintain or improve fire protection within the district, for the development of water supplies, or capital improvements.

EXCEPTIONS: 1. When all buildings in the subdivision are completely protected with an approved automatic sprinkler system, the above listed water supply and in lieu of payment schedule may be reduced by 50% (fifty percent). The Subdivision Covenants must state that "All residences constructed within the subdivision will be protected with an approved automatic sprinkler system." Payment for the reduced amount of \$250.00 per lot will be accepted at the time the Subdivision is approved. If at any time any residence is built within the subdivision without an approved sprinkler system, all lots will be subject to an additional \$250.00 payment, regardless of whether they have sprinklers in residences located on them or not.



Hamilton Rural Fire District

Post Office Box 1994 • Hamilton, MT 59840

September 17, 2008

John Horat
Bitterroot Engineering & Design, Inc.
1180 Eastside Highway
Corvallis, MT 59828

Tristan Riddell
Ravalli County Planning Department
215 S. 4th Street, Suite F
Hamilton, MT 59840

RE: Agency comment on D&G Farms Minor Subdivision Proposal - Driveways

To mitigate the impact of the subdivision on the Hamilton Rural Fire District's ability to provide fire protection access for emergency apparatus we request that:

- 1) The driveway serving Lot B (eastern lot) be widened to a 20 foot wide gravel surface with an unobstructed vertical clearance not less than 13 feet 6 inches.
- 2) The proposed future driveway which will service only Lot A (western parcel) be constructed with a 20 foot wide gravel surface with an unobstructed vertical clearance not less than 13 feet 6 inches. The driveway will be constructed at the time of house construction on Lot A.

Sincerely,

Lisa Wade
Secretary

EXHIBIT A-5

Budget Per Pupil/Tax Levy Per Pupil

Year 2007-2008

School	Total Budget	Students October Count	Budget Per Pupil
Corvallis	9,246,716	1,413	6,544
Stevensville Elem	4,313,675	615	7,014
Stevensville HS	3,844,872	426	9,026
Hamilton	10,696,135	1,616	6,619
Victor	2,354,712	349	6,747
Darby	3,918,507	435	9,008
Lone Rock Elem	2,010,732	301	6,680
Florence	6,004,225	898	6,686

NOTE: 1. This does not include any federal funds or budget for federal programs. This makes these figures reflect budget and revenue only from state, county and local sources.

School	Total Tax Except Capital	Students October Count	County & State Levy*	Tax Levy Per Pupil Exc Capital	Total Capital	Per Pupil Tax Capital	Total Tax Levy Inc Capital	Tax Levy Per Pupil Inc Capital
Corvallis	1,894,368	1,413	941,511	2,007	166,126	117.57	3,002,005	2,125
Stevensville Elem	1,077,017	615	412,448	2,422	120,541	196.00	1,610,006	2,618
Stevensville HS	818,794	426	329,287	2,695			1,148,081	2,695
Hamilton	2,714,396	1,616	1,050,013	2,329	909,210	562.63	4,673,619	2,892
Victor	468,192	349	202,861	1,923	297,013	851.04	968,066	2,774
Darby	1,022,738	435	371,211	3,204		0.00	1,393,949	3,204
Lone Rock Elem	432,039	301	223,920	2,179	102,211	339.57	758,170	2,519
Florence	1,234,419	898	776,153	2,239	24,542	27.33	2,035,114	2,266

NOTE: * County levied Retirement and Transportation

Name of Subdivision: *D & G FARMS*

RECEIVED

Subdivider/Landowner Name(s): *BILL*JUL 28 2008
10-08-07-908
Ravalli County Planning Dep.Consultant Name: *BR ENGINEERING*Date Received: *7-28-08*

Sufficiency Review Due Date: .

Yes	No	N/A	Item	Additional Information/Staff comments
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(1) Unless the land division is excluded from review under 76-4-125(2), the subdivider shall submit to the information listed below for proposed subdivisions that will include new water supply or wastewater facilities.

			Provide two copies of the following information with a check paid to RCEHD for their \$50.00 sufficiency review fee.	
			(a) Vicinity Map or Plan	
			(i) The location, within 100 feet outside of the exterior property line of the subdivision and on the proposed lots, of:	
			(A) flood plains	
			(B) surface water features	
			(C) springs	
			(D) irrigation ditches	
			(E) existing, previously approved, and, for parcels less than 20 acres, proposed water wells and wastewater treatment systems	
			(F) for parcels less than 20 acres, mixing zones identified as provided in subsection (1)(g);	
			(G) the representative drainfield site used for the soil profile description as required under subsection (1)(d)	
			(ii) The location, within 500 feet outside of the exterior property line of the subdivision, of public water and sewer facilities	
			(b) A description of the proposed subdivision's water supply systems, storm water systems, solid waste disposal systems, and wastewater treatment systems, including whether the water supply and wastewater treatment systems are individual, shared, multiple user, or public as those systems are defined in rules published by DEQ.	
			(c) A drawing of the conceptual lot layout at a scale no smaller than 1" = 200' that shows all information required for a lot layout document in rules adopted by the DEQ pursuant to 76-4-104.	

Yes	No	N/A	Item	Additional Information/Staff comments
			(d) Evidence of suitability for new onsite wastewater treatment systems that, at a minimum, includes:	
			(i) A soil profile description from a representative drainfield site identified on the vicinity map, as provided in subsection (1)(a)(i)(G), that complies with standards published by DEQ	
			(ii) Demonstration that the soil profile contains a minimum of 4 feet of vertical separation distance between the bottom of the permeable surface of the proposed wastewater treatment system and a limiting layer.	
			(iii) In cases in which the soil profile or other information indicates that ground water is within 7 feet of the natural ground surface, evidence that the ground water will not exceed the minimum vertical separation distance provided in subsection (1)(d)(ii);	
			(e) For new water supply systems, unless cisterns are proposed, evidence of adequate water availability:	
			(i) obtained from well logs or testing of onsite or nearby wells;	
			(ii) obtained from information contained in published hydrogeological reports; OR	
			(iii) as otherwise specified by rules adopted by DEQ pursuant to 76-4-104;	
			(f) Evidence of sufficient water quality in accordance with rules adopted by DEQ pursuant to 76-4-104;	
			(g) A preliminary analysis of potential impacts to ground water quality from new wastewater treatment systems, using as guidance rules adopted by the board of environmental review pursuant to 75-5-301 and 75-5-303 related to standard mixing zones for ground water, source specific mixing zones, and nonsignificant changes in water quality.	The preliminary analysis may be based on currently available information and must consider the effects of overlapping mixing zones from proposed and existing wastewater treatment systems within and directly adjacent to the subdivision. Instead of performing the preliminary analysis required under this subsection (1)(g), the subdivider may perform a complete nondegradation analysis in the same manner as is required for an application that is reviewed under Title 76, chapter 4.

Morgan June 13



EXHIBIT A -7

Montana Wildlife & Parks

Region 2 Office
3201 Spurgin Road
Missoula, MT 59804-3101
406-542-5500
Fax 406-542-5529
September 29, 2008

Tristan Riddell, Planner
Ravalli County Planning Department
215 S. 4th St., Ste. F
Hamilton, MT 59840

Reference: D & G Farms--Proposed minor (2 lots on 17.0 acres; NE4 Sec 23, T6N, R21W)
subdivision, 1 mile NW of Hamilton

Dear Mr. Riddell:

We have reviewed the preliminary plat and topographic map you provided for this proposed subdivision. We also reviewed this parcel and its surrounds on the Montana Cadastral website (<http://gis.mt.gov/>). Based on reviewing this information and our field knowledge of this location, our comments follow.

This parcel is located along the gradual bench leading up to extensive forested and wilderness areas to the west. Many riparian areas associated with Blodgett Creek, its side channels and other minor creeks are nearby. Wildlife species such as white-tailed deer, coyote, fox, raccoon, skunk and magpie, as well as an occasional black bear and possible mountain lion, could be expected in this area. Numerous small mammal and bird species would also be found nearby. There is a high likelihood of human/wildlife conflict at this location--particularly with deer and black bear--if residents do not pay attention to careful handling of garbage, garden/orchard produce, birdseed and other wildlife "attractants," as well as controlling pets.

1. We recommend that "living with wildlife" issues be conveyed to future residents. Adherence to those guidelines should help these residents deal with and avoid conflicts with wildlife. We have enclosed our recommended version of such covenants for this location.
2. This lot is about one-half mile from the Bitterroot River and its associated sloughs, where waterfowl hunting could be expected to occur, and there is potential for conflict between the noise from hunting and residents of this subdivision. We have included a covenant (m) to address this issue.

We thank you for providing the opportunity for FWP to comment on this proposal.

Sincerely,

/s/ Mike Thompson for

Mack Long
Regional Supervisor

ML/sr

Covenants (or development agreement) section for D & G Farms, recommended by Montana Fish, Wildlife & Park; Missoula; September 29, 2008

Section __: Wildlife

Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the presence of wildlife such as white-tailed deer, mule deer, black bear, mountain lion, coyote, fox, skunk, raccoon, and magpie. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners "live with wildlife." Alternatively, see FWP's web site at www.fwp.mt.gov.

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. Homeowners must be aware of the potential for **vegetation damage by wildlife**, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Gardens, fruit trees** or orchards can attract wildlife such as bear and deer. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or organic material can attract bears, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. The top rail should be made of something other than wire to prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries. To keep wildlife such as bears out of gardens and/or away from fruit trees, use properly constructed electric fences and maintain these constantly. (Contact FWP for information on "all-species electric fencing" designed to exclude wildlife from gardens and/or home areas.)
- c. **Garbage** must be stored in secure animal-resistant containers or indoors to avoid attracting animals such as raccoon, black bear, and other wildlife. If stored indoors, it is best not to set garbage cans out until the morning of garbage pickup; bring cans back indoors by the end of the day.
- d. **Do not feed wildlife** or offer supplements (including salt blocks), attractants, or bait for deer, sheep or other wildlife, including during the winter. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer can attract mountain lions to the area.

- e. Bears can be attracted to food smells associated with **outdoor food storage**; therefore, freezers and refrigerators should not be placed outdoors on porches or in open garages or buildings. If a freezer/ refrigerator must be located outdoors, attempt to secure it against potential bear entry by using a stout chain and padlock around the girth of the freezer.
- f. **Birdseed** in bird feeders attracts bears. If used, bird feeders must: 1) be suspended a minimum of 20 feet above ground level, 2) be at least 4 feet from any support poles or points, and 3) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- g. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the direct control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Keeping pets confined also helps protect them from predatory wildlife. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124).
- h. **Pet food and livestock feed** must be stored indoors, in closed sheds or in bear-resistant containers in order to avoid attracting wildlife such bears, mountain lion, skunk, and raccoon. **When feeding pets and livestock**, do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- i. **Barbecue grills** should be stored indoors. Permanent outdoor barbecues grills are not allowed in this subdivision. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife. (Due to the potential hazard of fire and explosion, propane cylinders for gas-fueled grills should be disconnected and kept outdoors. Under no circumstances should propane cylinders be stored indoors.)
- j. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail) and no lower than 18 inches (at the bottom rail) in order to facilitate wildlife movement. Barbed wire fences are not allowed in this subdivision, and this should avoid animals such as deer and/or elk becoming entangled in the wire or injuring themselves when trying to jump the fence. Contact FWP for a brochure for fence building with wildlife in mind.
- k. **Compost piles** can attract skunks and bears. If used they should be kept in wildlife-resistant containers or structures. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Due to the potential fire hazard associated with decomposition of organic materials, compost piles should be kept at least 10 feet from structures.)
- l. **Apiaries (bee hives)** could attract bears in this area and should be avoided. (If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)
- m. Residents of this subdivision must recognize that the subdivision is located about one-half mile from the Bitterroot River and its associated sloughs and wetlands, where lawful waterfowl hunting and the associated **discharge of shotguns** could occur from a half-hour before sunrise through sunset, and the season can run from September into January.
- n. These wildlife covenants cannot be changed or eliminated without the concurrence of the governing body (Ravalli County Commissioners).

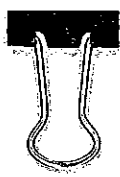


EXHIBIT A-8

September 8, 2008

Re: Sensitive Species waiver, D&G Farms

John-


I reviewed the Sensitive Species Wavier request prepared for the D&G Farms Minor Subdivision on September 8, 2008. Montana Natural Heritage Program data indicated that the Western Skink, Townsend's Big-Eared Bat, Grey Wolf, and Bald Eagle were all located within the section of the proposed development. The waiver request states that the subject property does not provide suitable habitat for the aforementioned species.

Based on the lack of suitable habitat for the listed species, I would recommend granting of the waiver request.

Please find attached the waiver request from Pioneer Surveying and the MNHP data and map.

Please review and provide comment.

Thank you-



Tristan

waiver
Granted 9/10/08
JPL

